

CITY OF HARRINGTON
ORDINANCE NO. 17-04

AN ORDINANCE AMENDING CHAPTER 175, IMPACT FEES, OF THE CODE OF THE CITY OF HARRINGTON TO REVISE THE BUSINESS LICENSE REQUIREMENTS AND PROCESS

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HARRINGTON IN COUNCIL MET:

Section 1. That Chapter 120, Business Licenses, shall be amended by deleting the existing chapter and substituting in lieu thereof the following:

Chapter 120, Business Licenses

§ 120-1. Purpose.

The City Council has deemed it necessary to issue business licenses and establish procedures governing the issuance of business licenses in order to identify owners/operators of businesses, track changes in ownership and/or business activity, define the nature of business activities, ensure an understanding of and compliance with City codes governing business operations, provide necessary approval, enforcement, and compliance procedures, and for other public purposes.

§ 120-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BUSINESS

Any person engaged in the sale of goods or services including, but not limited to, any retail, wholesale, service, rental, food service, professional or personal service, or other general commercial activity.

GAS, LIGHT, POWER, CABLE TV, OR TELEPHONE COMPANY

Includes the license fee for utilities, provided that this license does not cover sales of appliances or equipment for which a separate license shall be required.

HOTEL

Includes every person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which has at least six permanent bedrooms for the use of guests.

MANUFACTURER

Any person as owner or agent in the practice, conduct, pursuit, or carrying on the business of working raw materials into products of a different character, finished or unfinished, or of effecting any combination or composition of material, the nature of which is changed; or of finishing by hand or machinery goods, wares, or merchandise or any article or material.

MOBILE HOME PARK

Includes every person engaged in the business of providing space and facilities for rent or lease to owners of mobile home units on a permanent or semipermanent basis.

MOTEL

Includes every person engaged in the business of furnishing for a consideration, transient guests with sleeping accommodations, private bath and toilet facilities, linen service, and a place to park an automobile and who is not in the business of operating a hotel as defined in this section.

PERSON

Any individual, firm, corporation, company, partnership, or joint venture.

RAILROAD

~~Includes any railroad with an interchange point within the City limits, any railroad located within the City limits which does intrastate business, any railroad that has traffic originating with the City, and any railroad that has traffic terminating within the City limits.~~

TRANSIENT MERCHANT

A person who engages or proposes to engage temporarily in merchandising business in the City and occupies a room, building, tent, vehicle, lot, stand, or other premises for the purpose of selling, trading, or bartering goods, wares, and merchandise.

§ 120-3. License required.

- A. No person shall operate, maintain, or otherwise be engaged in any business within the boundaries of the City of Harrington without having first obtained a business license issued by the City.
- B. No license shall be required of any individual practicing a profession or trade who is in the employ of any corporation licensed under any other provisions of this chapter and who does not practice his/her profession except in his/her capacity as an employee of such corporation.

§ 120-4. Exemptions.

The provisions of this chapter shall not apply to the following:

- A. Deliveries of goods or property to a resident at their home or to a licensed business for use or resale in that business.
- B. Charitable, religious, educational, or public service facility, social association or club, or governmental agency except to the extent that such operate a separate retail facility, provided that any third parties operating on behalf of any such entities shall not be exempted from obtaining a business license.
- C. Exhibitor in a museum, the Harrington Public Library, an educational facility, or other public building where such exhibition is part of a limited scheduled event or show.
- D. Residents conducting yard sales on the premises of personal property owned or leased by said resident; provided, however, that not more than four yard sale events shall be conducted in each calendar year on said premises. A yard sale that occurs over a period of up to three consecutive days is considered one yard sale event. Any charitable or public service institution, association, club, or body not organized or conducted for private gain shall be exempt from the limit of four yard sales per calendar year.
- E. Sale of agricultural or nursery items grown on the premises of the property owner.
- F. Transient merchants paying a registration fee to participate in an event sponsored by a nonprofit or charitable organization.
- G. Anyone under eighteen (18) years of age that performs grass cutting services.

§ 120-5. License application.

- A. Applications for business licenses shall be upon forms provided by the City which shall include the following information:
 - (1) Company/business name;
 - (2) Phone number and street address of business (physical location, not post office box);
 - (3) The name, title, phone number(s), and address(es) of the owner(s);

- (4) Name, cell phone number, and email address of the authorized manager or representative;
 - (5) The trade, business, or occupation for which the license is being requested;
 - (6) Number of regular full time and part time or seasonal employees, if applicable;
 - (7) A statement that the applicant is knowledgeable of and has complied with and will continue to comply with all ordinances of the City; and
 - (8) Any such other information as deemed necessary by the City Manager, and/or his/her designee.
- B. The application shall be verified by the oath or affirmation of the individual licensee or of one member of a partnership, firm, or association or the president, secretary, or a director of a corporation applying for a contractor license.
- C. A copy of any business licenses issued by the State of Delaware and/or any other approvals issued by the Division of Revenue or another governmental or quasi-governmental agency (i.e. ABCC, Administrative Services, Banking Commissioner, Insurance Commissioner, PSC, DNREC, EPA, IRS, etc.) shall accompany the application. Possession of any such license or approval shall not exempt a person from obtaining a City of Harrington business license.
- D. If the applicant is not the property owner, a copy of a lease agreement or a letter from the property owner stating the applicant has permission to operate a business on their property shall accompany the application. This requirement shall be waived for business license renewals at the same property address.
- E. The proper license fee shall accompany the application.

§ 120-6. Issuance of license; expiration; records; form.

- A. Upon proper application and payment of the prescribed fees as established in Chapter 180, Municipal Fees, a license shall be issued to each such applicant.
- B. Each such license shall be valid and effective from the first day of July each year, or the date of issuance, to June 30 at 11:59 p.m. of the fiscal year in which it was issued.

- C. A record of all licenses issued and license fees paid shall be maintained at City Hall.
- D. Each such license shall be upon a form provided by the City Manager, and/or his/her designee, which shall set forth the following information:
 - (1) The name and business address of the licensee;
 - (2) The trade, business, or occupation for which the license is granted;
 - (3) The date of issuance of the license;
 - (4) The amount of the license fee paid to the City; and
 - (5) Any such other information as deemed necessary by the City Manager, and/or his/her designee.

§ 120-7. Denial of license.

- A. The City Manager, and/or his/her designee, shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance by the applicant pursuant to the application.
- B. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not engage in the business for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering it.

§ 120-8. License fees; delinquencies; refund; exemptions.

- A. No license shall be issued under this chapter except upon payment of a fee as established in Chapter 180, Municipal Fees, and the full fee shall be required irrespective of when during the year a license is issued. The annual business license fee shall be established in Chapter 180, Municipal Fees based on the following categories:
 - (1) Distributors and manufacturers, based on the number of employees.
 - (2) Gas, light, power, cable TV, and telephone companies.
 - (3) Hotels and motels.
 - (4) Mobile home park, per space.
 - (5) ~~Railroads.~~

(6) All other trades, businesses, or occupations.

- B. If the license fee is not paid within thirty (30) days of being due, the owner shall be in violation of this chapter. The owner shall be assessed a fine for failure to obtain a license as established in Chapter 180, Municipal Fees, for each month the business remains in operation without a license.
- C. No prorating, rebate, or refund of any business license fee or part thereof shall be made by reason of nonuse of the license, revocation, or by reason of a change of location or business rendering the use of the license ineffective. The City Manager, and/or his/her designee, shall have the authority to refund a business license fee only if the license fee was collected through an error.
- D. All 501(c)(3) nonprofit companies are exempt from license fees.

§ 120-9. Display of license.

A business license issued under the provisions of this chapter shall be displayed in a public place in the establishment or place of business for which it is issued or, if applicable, carried by the licensee.

§ 120-10. Transfer of license.

Each business license granted under this chapter shall be for the sole use and benefit of the person to whom it is issued and shall not be transferable. A business license may not be transferred from one party to another or from one location to another location of the same business. If the location or nature of the licensee's business activities substantially changes after the issuance of a business license, a new business license shall be required. In case of the death of any individual licensee, his/her personal representative shall succeed to all rights thereunder until the expiration of the license.

§ 120-11. Duplicate license.

A duplicate license shall be issued by the City Manager, and/or his/her designee, to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public of this state attesting to that fact and payment of the fee as set forth in Chapter 180, Municipal Fees.

§ 120-12. Multiple business locations.

A license shall be obtained in the manner prescribed in this chapter for each branch establishment or location of the business engaged in as if each branch establishment or location were a separate business; provided that warehouses

and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

§ 120-13. Transient merchants.

Transient merchants shall comply with all regulations of this chapter, including obtaining for a business license. If the transient merchant changes locations or occupies multiple locations a separate license is required for each location as provided for in § 120-10, Transfer of license and § 120-12, Multiple business locations.

§ 120-14. Sales at public functions on City property.

Notwithstanding any other provision, no person shall sell merchandise at any public function held in the City, on lands owned by the City, without first obtaining written permission therefor from the City Manager.

§ 120-15. Code compliance.

A business operating in the City shall at all times be in compliance with all city codes and ordinances. Each licensee shall refrain from operating the licensed business after expiration of his/her license and during the period his/her license is revoked.

§ 120-16. Inspection by city officials.

The City Manager, and/or his designee, shall have the authority to make or have made all inspections and investigations reasonably necessary to enforce this chapter and to inspect those portions of the commercial premises that are open and visible to the public in order to ensure that the business is being conducted as specified by the license and is in compliance with all applicable building, safety, zoning, and other city codes. All persons authorized by this chapter to inspect businesses shall have the authority to enter the premises to inspect at all reasonable times.

§ 120-17. Enforcement; revocation of license.

- A. The City Manager, and/or his/her designee, shall make or have made all investigations reasonably necessary to the enforcement of this chapter.
- B. The City Manager may order a business to cease operations in the City and suspend its business license (if a business license has been obtained) for any of the following reasons:

- (1) The business is found to be operating in violation of the terms of this chapter.
 - (2) The business is more than sixty (60) days late in renewing its business license.
 - (3) The business is in violation of any regulations of the Code of the City of Harrington or the laws of Delaware.
 - (4) The fire marshal or any public safety authority having jurisdiction has requested that the business activities cease until certain conditions have been remedied.
- C. The City shall provide the business with written notice of the violation(s), which notice shall state that the business shall be ordered to cease operations and its business license (if applicable) shall be revoked without further notice if within ten business days of the date of the notice the business fails to remedy the violations or file an appeal with the City Council. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the business. If the business does not remedy the violations or appeal the determination of the City Manager within the prescribed time period, the business shall not be permitted to operate in the City until such violations have been remedied. Notwithstanding the foregoing, notice shall not be required to order a business to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

§ 120-18. Appeals.

- A. Any person aggrieved by any decision of the City Manager, and/or his/her designee, shall have the right to appeal to the City Council by filing a written appeal with the City Council within ten (10) days following the date of the notice of violation or decision complained of. The appeal shall set out a copy of the notice of violation or decision appealed from and shall include a statement of facts relied upon to avoid the order.
- B. The City Council shall fix a time and place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing him of the hearing. The hearing may be held as part of a regularly scheduled City Council meeting. The findings of the City Council shall be final and conclusive and shall be served upon the person who requested the appeal.

§ 120-19. Violations and penalties.

- A. Any business/person operating within the City without a valid business license will be subject to penalties for failure to obtain a license as established in Chapter 180, Municipal Fees.
- B. A notice of violation issued by the City Manager, and/or his/her designee, will stay in effect until the business complies with all conditions associated with the issuance of a valid business license, including annual business license and penalty fees.
- C. Continued violation of any provision of this chapter is subject to fines in accordance with Chapter 180, Municipal Fees.
- D. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
- E. The amount of any unpaid penalty, including the unpaid business license fee, shall constitute a debt owed to the City, and the City may institute a civil suit or use any other lawful methods authorized by the City Charter or the laws of the State of Delaware to recover any unpaid fee.

Repealer. All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Effective Date. The Clerk of Council shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval by Council.

SO ORDAINED by the majority of Council Members present at a regular session of Harrington City Council, to be effective upon signing.

Anthony R. Moyer, Mayor

Attest: _____
Kelly Blanchies, Clerk of Council

Date of Adoption: _____

SYNOPSIS

This Ordinance adopts a new Chapter 120, Business Licenses, to simplify the business license requirements.

First Reading: _____

Public Hearing: _____

Second Reading: _____

First Reading